



Atty. Dkt. No 061300-0421

DAC \$521W

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Anthony J. Khouri
Title: VEHICLE MOUNTED PLASTICS
DRUM FOR CONCRETE
MIXING AND METHODS OF
MANUFACTURE THEREOF
Appl. No.: 10/049,605
Filing Date: 10/09/2000
Examiner: Soohoo, Tony Glen
Art Unit: 1723

<p>CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on the date below.</p> <p>Catherine A. Cusick (Printed Name)</p> <p><i>Catherine A. Cusick</i> (Signature)</p> <p>June 29, 2005 (Date of Deposit)</p>

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
DETERMINATION UNDER 35 U.S.C. § 154(b)**

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The Issue Notification dated March 7, 2005 indicated that the Patent Term Adjustment ("PTA") for the above-identified application is 102 days. However, Applicants have checked this number and determined that the correct PTA award to date is 151 days. Thus, Applicants hereby request reconsideration of the PTA award for the following reasons:

Basis for the Adjustment

The PTA history shown on the U.S. PTO website calculates 122 Applicant delay days. Of the 122 Applicant delay days, 120 days are indicated as being attributable to the filing of an Amendment after a Notice of Allowance under 37 C.F.R. Section 1.312. 37 C.F.R. Section 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

- (i) The number of days, if any, beginning on the date the Amendment under § 1.312 or other paper was filed and ending on

the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months.

(Emphasis added). As indicated in the Patent Term Adjustment history provided on the U.S. PTO website, the amendment after notice of allowance (rule 312) was received on December 27, 2004. As further indicated in the Patent Term Adjustment History, the Patent Office mailed a response to the 312 Amendment (PTO-271) on March 7, 2005.

The PTO calculated the number of Applicant delay days resulting from the filing of the Amendment After Notice of Allowance as 120 days (i.e. four months). However, the number of days beginning on the date the Amendment under § 1.312 was filed (December 27, 2004) and ending on the mailing date of the Response to the Amendment under § 1.312 (March 7, 2005) is 71 days. Accordingly, the correct Applicant delay days attributable to the filing of an Amendment After the Notice of Allowance should be 71 days, not 120 days. This was an error by the PTO in the determination of the PTA days. As a result, the total Applicant delay days should be 73 days rather than 122 days. Accordingly, the correct PTA should be 151 days.

In view of the foregoing, Applicants respectively request the termination of PTA days be corrected to 151 days.

Enclosed herewith is a check in the amount of \$200.00 to cover the requisite fee associated with this request.

This request is being filed within 30 days of the issue date of the above-identified patent and, thus, is timely filed.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of

papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R.
§1.136 and authorizes payment of any such extension fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date June 28, 2005 By Todd A. Rathe

FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5710
Facsimile: (414) 297-4900

Todd A. Rathe
Attorney for Applicant
Registration No. 38,276